

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

DEMETRIC REDMOND,

Defendant-Appellee.

UNPUBLISHED

September 28, 1999

No. 215590

Wayne Circuit Court

Criminal Division

LC No. 98-007554

Before: Collins, P.J., and Sawyer and Cavanagh, JJ.

PER CURIAM.

The prosecutor appeals as of right the trial court's order granting defendant's motion to suppress physical evidence and dismissing the charges brought against defendant. The prosecutor's sole issue on appeal is that the trial court erred when it granted defendant's motion to suppress physical evidence because probable cause existed to support issuance of the search warrant. We agree.

This Court reviews de novo the trial court's decision to suppress evidence. However, this Court reviews the trial court's findings of fact in deciding the motion for clear error. *People v Parker*, 230 Mich App 337, 339; 584 NW2d 336 (1998). This Court reviews a finding regarding probable cause by looking at the affidavits and determining whether the information contained in the documents could have caused a reasonably cautious person to conclude that there was a substantial basis of probable cause to conclude that the evidence sought might be found in a specific location. *People v Russo*, 439 Mich 584, 603; 487 NW2d 698 (1992). The search warrant and the underlying affidavit are to be read in a realistic and common-sense manner, and deference is given to the magistrate's determination. *People v Sloan*, 450 Mich 160, 168; 538 NW2d 380 (1995). Review is limited to those facts which were presented to the magistrate and are contained on the record. *Sloan, supra*, 450 Mich 172-173.

A search warrant may not be issued unless probable cause exists to justify the search. US Const, Am IV; Const 1963, art 1, § 11; MCL 780.651; MSA 28.1259(1); *Sloan, supra*, 450 Mich 166-167. Probable cause exists when the facts and circumstances would allow a person of reasonable prudence to believe that the evidence of a crime or contraband sought is in the stated place. *People v Darwich*, 226 Mich App 635, 637; 575 NW2d 44 (1997).

Probable cause must be based on facts presented to the issuing magistrate by oath or affirmation. *Sloan, supra*, 450 Mich 167-168. A finding of personal knowledge should be derived from the information provided in the affidavit and not merely from recitation that the informant had personal knowledge. *People v Stumpf*, 196 Mich App 218, 223; 492 NW2d 795 (1992). An independent police investigation which verifies information provided by an informant can also support issuance of a search warrant. *People v Harris*, 191 Mich App 422, 425-426; 479 NW2d 6 (1991).

In *Stumpf*, the defendant took issue with the specificity in which details were provided by the informant and the lack of an adequate police investigation to verify the information. This Court held that when the informant provided shipments, dates and the defendant's name and address, the informant spoke with personal knowledge and provided enough specificity. *Stumpf, supra*, 196 Mich App 223.

The affiant conducted an independent investigation that produced corroborating evidence and substantially verified the information supplied by the informant. Finally, the fact that the police previously had utilized information provided by this informant in other warrant requests with successful results provided further support for the magistrate to conclude that the informant was credible and reliable. [*Stumpf, supra*, 196 Mich App 223 (citations omitted).]

Here, the informant had been used by Sergeant McNamara on three prior occasions. The prior occasions had resulted in three arrests. Sergeant McNamara's previous use of the informant suggested that the informant was reliable and credible. Furthermore, the informant had been at the premises on Edward only twenty-four hours before the signing of the search warrant and had observed the cocaine being broken down into packages for distribution.

Likewise, as in *Stumpf*, the police here conducted an independent investigation. Sergeant McNamara took steps to verify the information given to him by the informant. The telephone number that the informant gave him was subscribed by Lawanda Redmen of 16055 Edward. Sergeant McNamara also checked with the FBI and found that there were numerous narcotic violation telephone calls made to and from the same number during a wiretap investigation regarding a major narcotic distribution organization. Given the credible and reliable nature of the informant in the past and that Sergeant McNamara conducted an independent investigation to verify the information given to him by the informant, a reasonably cautious person could conclude that there was a substantial basis of probable cause. Accordingly, the trial court improperly suppressed the physical evidence.

Reversed.

/s/ Jeffrey G. Collins
/s/ David H. Sawyer
/s/ Mark J. Cavanagh